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HOUSE BILL 838

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY
W. Ken Martinez

AN ACT

RELATING TO CAMPAIGN FINANCE; CLARIFYING PERMISSIBLE USES OF
CAMPAIGN CONTRIBUTIONS; DEFINING PERSONAL USE OF FUNDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 1-19-29.1 NMSA 1978 (being Laws 1993,
Chapter 46, Section 6, as amended) is amended to read:

"1-19-29.1. CAMPAIGN FUNDS--LIMITATION ON USE.--

A. It is unlawful for ~~[any]~~ a candidate or ~~[his]~~ a
candidate's agent to make an expenditure of contributions
received, except for the following purposes or as otherwise
provided in this section:

- (1) expenditures of the campaign;
- (2) expenditures of legislators and other

elected state officers that are reasonably related to
performing the duties of the office held, including mail,

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1 telephone and travel expenditures to serve constituents, but
2 excluding personal and legislative session living expenses;

3 (3) donations to the state general fund;

4 (4) donations to an organization to which a
5 federal income tax deduction would be permitted under
6 Subparagraph (A) of Paragraph (1) of Subsection (b) of Section
7 170 of the Internal Revenue Code of 1986, as amended;

8 (5) expenditures to eliminate the campaign
9 debt of the candidate for the office sought or expenditures
10 incurred by the candidate when seeking election to another
11 public office covered by the Campaign Reporting Act;

12 (6) donations to a political committee or
13 party or to another candidate seeking election to public office
14 and other general political or partisan purposes; provided that
15 it is unlawful for a candidate or a candidate's agent to
16 convert any contribution received to personal use; or

17 (7) disbursements to return unused funds pro
18 rata to the contributors if no campaign debt exists.

19 B. A judge subject to a nonpartisan retention
20 election or a candidate for judicial office shall solicit or
21 accept campaign funds and return unused funds in accordance
22 with the provisions of the Code of Judicial Conduct.

23 C. No contributions solicited for or received in a
24 federal election campaign may be used in a state election
25 campaign.

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1 D. For purposes of this section:

2 (1) "personal use" means any use of
3 contributions received to fulfill a commitment, obligation or
4 expense of any person that would exist irrespective of the
5 candidate's campaign or duties as an officeholder, including
6 but not limited to:

7 (a) household food items or supplies;

8 (b) clothing other than items of de
9 minimis value used in the campaign such as shirts or caps with
10 campaign slogans;

11 (c) tuition payments, other than those
12 associated with training campaign staff;

13 (d) mortgage, rent or utility payments
14 for any part of any personal residence of the candidate or
15 candidate's family or for real or personal property that is
16 owned by the candidate or member of the candidate's family and
17 used for campaign purposes, to the extent the payments exceed
18 the fair market value of the property usage;

19 (e) admission to a sporting event,
20 concert, theater or other form of entertainment, unless it is
21 part of a specific campaign or officeholder activity or event;

22 (f) dues, fees or gratuities at a
23 country club, health club, recreational facility or other
24 nonpolitical organization, unless they are part of the costs of
25 a specific campaign event that takes place on the

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1 organization's premises;

2 (g) salary payment to a member of the
3 candidate's family, unless the family member is providing bona
4 fide services to the campaign;

5 (h) salary payments to the candidate in
6 excess of the lesser of the minimum salary paid to a state
7 officeholder holding the state office the candidate seeks or
8 the earned income that the candidate received during the year
9 prior to becoming a candidate;

10 (i) a vacation or other travel that is
11 not campaign-related; provided that if a committee uses
12 contributions received to pay expenses associated with travel
13 that involves both personal activities and campaign- or
14 officeholder-related activities, the incremental expenses that
15 result from the personal activities are personal use; and

16 (j) vehicle expenses; provided that, if
17 a committee uses contributions received to pay expenses
18 associated with a vehicle that is used for both personal
19 activities beyond a de minimus amount and campaign- or
20 officeholder-related activities, the portion of the vehicle
21 expenses associated with the personal activities is personal
22 use; and

23 (2) "personal use" does not include gifts of
24 nominal value or donations of a nominal amount, unless made to
25 the candidate or to a member of the candidate's family."

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